

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:05CV318

JEAN RHODES,

Plaintiff,

Vs.

**BLUE RIDGE HEALTHCARE SYSTEMS,
INC.; and LIFE INSURANCE COMPANY
OF NORTH AMERICA,**

Defendants.

ORDER

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed January 19, 2006.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On January 19, 2006, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and

conclusions of law in support of a recommendation regarding the motions to dismiss filed by the Defendants Life Insurance Company of North America and CIGA Corporation on December 9, 2005. The parties were advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on February 6, 2006. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation that Defendant Life Insurance Company's motion for partial dismissal be allowed and Defendant CIGNA's motion to dismiss be allowed.

IT IS, THEREFORE, ORDERED that the motion of Defendant Life Insurance Company of North America to dismiss Plaintiff's second cause of action is **ALLOWED**, and such claim is hereby **DISMISSED**.

IT IS FURTHER ORDERED that the motion of Defendant CIGNA Corporation to dismiss is **ALLOWED**, and the complaint as to that Defendant is hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Plaintiff and Defendant Blue Ridge Health Care System file appropriate pleadings to identify the proper Defendant herein as Blue Ridge Health Care System or Grace Hospital, Inc., within 14 days of service of this Order.

Signed: February 15, 2006

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

